

## IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 09-0322

PLAINS GRAINS LIMITED PARTNERSHIP, a  
Montana limited partnership, et al.,

Plaintiffs and Appellants,

v.

BOARD OF COUNTY COMMISSIONERS OF  
CASCADE COUNTY, the governing body of the  
County of Cascade, acting by and through Peggy S.  
Beltrone, Lance Olson and Joe Briggs,

Defendants and Appellees,

SOUTHERN MONTANA ELECTRIC  
GENERATION and TRANSMISSION  
COOPERATIVE, INC.; the ESTATE OF  
DUANE L. URQUHART; MARY URQUHART,  
SCOTT URQUHART, and LINDA URQUHART,

Intervenors, Appellees, and Cross-Appellants.

FILED

NOV 03 2009

Ed Smith  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

O R D E R

The National Trust for Historic Preservation (the Trust) in the United States and the Montana Preservation Alliance moved for leave to file an amicus brief in this appeal on September 11, 2009. The Trust stated that its proposed brief could be filed by September 28, 2009. Three days later, a similar motion was filed by Northern Plains Resources Council, Inc., and ten other entities. The Appellees and cross-appellants filed objections to both briefs on grounds, among others, that the motions were untimely in that briefing of the appeal already was well underway. Both groups seeking amicus status lodged briefs with the Clerk of this Court on September 28, 2009.

The Appellants filed their opening brief in this appeal on August 17, 2009. Pursuant to M. R. App. P. 13(1), the Appellees' Answer and Cross-Appeal brief was due within 30

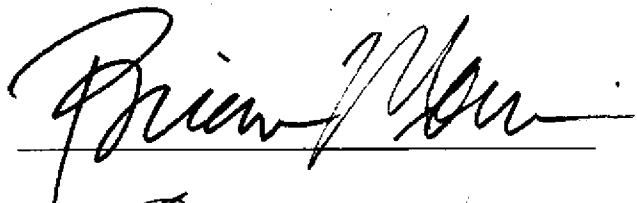
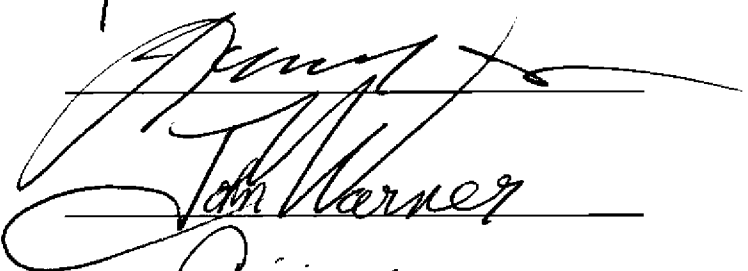

days thereafter. Appellees filed that brief on September 11, 2009. Briefing by the parties pursuant to M. R. App. P. was completed on September 29, 2009.

We consistently have declined to grant motions for leave to appear as amicus curiae which are filed late in the proceedings, absent extraordinary circumstances. No extraordinary circumstances have been demonstrated here.

THEREFORE, IT IS ORDERED that the two above-identified motions to be allowed to file amicus curiae briefs are DENIED.

The Clerk is directed to provide copies of this Order to all counsel of record.

DATED this 3<sup>rd</sup> day of November, 2009.

Justices